

MAY 18 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

GUSTAVO FUENTES-SORIANO,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-76681

Agency No. A77-165-720

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted May 15, 2006**

Before: B. FLETCHER, TROTT and CALLAHAN, Circuit Judges.

Gustavo Fuentes-Soriano, a native and citizen of Mexico, petitions for review of an order of the Board of Immigration Appeals (“BIA”) summarily affirming an immigration judge’s (“IJ”) order denying his application for

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

cancellation of removal. To the extent we have jurisdiction, it is conferred by 8 U.S.C. § 1252. We review due process claims de novo, *see Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2001), and we deny in part and dismiss in part the petition for review.

Fuentes-Soriano's contention that the IJ refused to allow him to present crucial witnesses is not supported by the record and therefore does not raise a colorable due process claim. *See id.* (to be colorable, the claim must have some possible validity).

Fuentes-Soriano's contention that the BIA's summary affirmance of the IJ's decision violates due process is foreclosed by *Falcon Carriche v. Ashcroft*, 350 F.3d 845, 850-51 (9th Cir. 2003).

We lack jurisdiction to review the discretionary hardship determination, *see Martinez-Rosas*, 424 F.3d at 930, as well as Fuentes-Soriano's contention that the agency misapplied relevant case law in making its conclusion, *see Sanchez-Cruz v. INS*, 255 F.3d 775, 779 (9th Cir. 2001) (holding that the "misapplication of case law" may not be reviewed).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.